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**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2015-04      **Legistar #:** 20141351

**Board of Zoning Appeals Hearing:** Monday, January 26, 2015

**Property Owner:** Northside Multi Family, LLC  
P.O. Box 279  
Grayson, GA 30017

**Applicant:** Kirk Buttle  
CBRE  
1431 Waterford Green Drive  
Marietta, GA 30068

**Address:** 735 Cobb Parkway North

**Land Lot:** 10710      **District:** 16      **Parcel:** 0390

**Council Ward:** 5B      **Existing Zoning:** CRC

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to increase the maximum floor area ratio (FAR) from 0.50 to 0.55. [*§708.16 (H)*]
2. Variance to increase the maximum impervious surface from 80% to 91% [*§708.16 (H)*]
3. Variance to reduce the side setback from 15 ft. to 14.7 ft. [*§708.16 (H)*]

**Statement of Fact**

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**View of 735 Cobb Parkway from Cobb Parkway**



**View of 735 Cobb Parkway from 725 Parkway**



**View of the rear side of 735 Cobb Parkway**



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**Recommended Action:**

**Approval.** The applicant, Kirk Buttle, on behalf of owner, Northside Multi Family, LCC, is requesting multiple variances for the property at 735 Cobb Parkway North in order to subdivide the parcel. The subject property is zoned Community Retail Commercial (CRC) along with the properties to the north, west, and east. The property to the south is zoned PRD-MF (Planned Residential Development Multi Family).

The applicant is seeking three variances: (1) a variance to increase the maximum floor area ratio (FAR) from 0.50 to 0.55; (2) a variance to increase the maximum impervious surface from 80% to 91% and; (3) a variance to reduce the side setback from 15 feet to 14.7 feet. These requests are being made as a result of comments from City Staff during the review of a request to subdivide the parcels.

Many years ago this parcel was larger and included the property to the northeast, now 725 Cobb Parkway North. The previous owner did not properly subdivide the parcels before selling the properties. Northside Multi Family, LLC is the current owner of 735 Cobb Parkway North, and they purchased the apartment building in November 2011, but were unaware that the subdivision of 725 and 735 Cobb Parkway North had not been properly reviewed and approved by the City of Marietta. The applicant indicated that they are attempting to correct this error by getting surveys done so that the two properties can be properly subdivided. A survey was conducted and it was at that time that it was determined that the property at 735 Cobb Parkway was not in compliance with City code and would need the listed variance to be in compliance.

Section 708.16 (H) regarding bulk and area regulations states that maximum floor area ratio (FAR) is 0.50, the maximum impervious surface is 80%, and the side setback is 15 feet. Since the parcels were subdivided without city review and approval, the FAR for 735 Cobb Parkway North is 0.55, the impervious surface is at 91%, and one apartment building is only 14.7 feet from the property line.

Had these parcels been properly reviewed and approved by the City of Marietta, these issues would have been brought up at that time. The property line drawn by the previous owner could have been shifted to eliminate the setback issue on Tract 1. However, since the current owners have inherited nonconformities created by the previous owner, **staff recommends approval of these variances.**



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, AICP, Director

### APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

Application #: V2015-04 Hearing: 1/26/15 Registrar # \_\_\_\_\_

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name NORTHSTAR MULTI FAMILY, LLC

Address P.O. Box 279, Grayson, GA Zip Code: 30017

Telephone Number: 678-713-8400 Email Address: esunc@aol.com

#### COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant Kirk Butte

Address 1431 Waterford Green Dr. Marietta Zip Code: 30068

Telephone Number 404-923-1244 Email Address: Kirk.butte@cbre.com

Address of property for which a variance or appeal is requested:

735 Cobb Parkway N Date of Acquisition: Nov. 2011

Land Lot (s) 1071 District 16 Parcel 390 Acreage .78 Zoned CRC Ward 5 FLU

List the variance(s) or appeal requested (please attach any additional information):

See Attached

#### Required Information

1. Application fee (\$250)
2. Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
3. Legal description of property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - 25 copies of site plan drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.
7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

**Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.**

**OVER**

## **PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, January 26, 2015, 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2015-05 [VARIANCE] WAFFLE HOUSE** request variances for property located in Land Lot 12380, District 16, Parcel 0090, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia and being known as 1176 Roswell Road. Variance to reduce the rear setback from 35 ft. to 12 ft.; variance to allow for an accessory structure to be closer to the public right of way than principal structure. Ward 7A.

A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

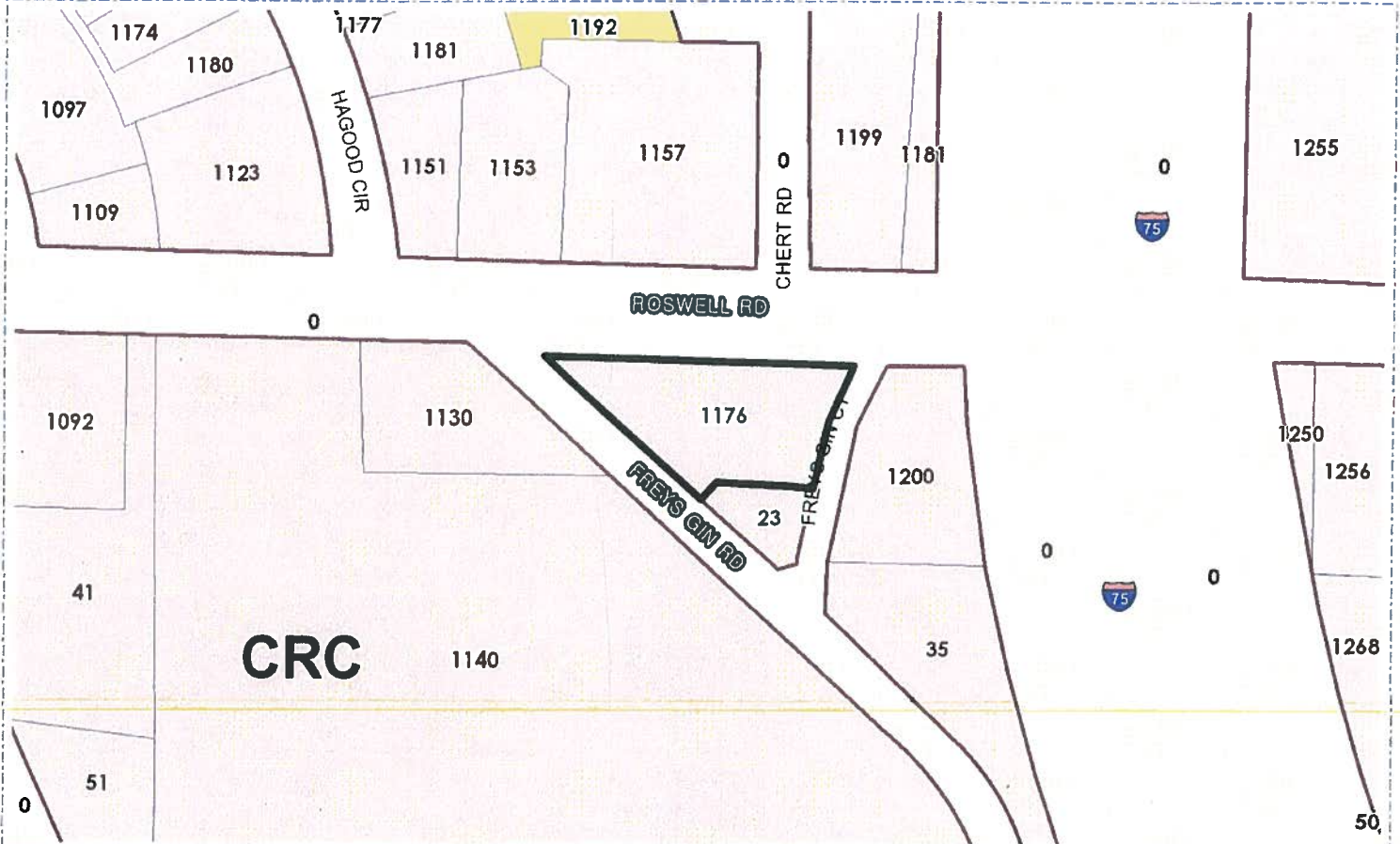
For additional information please call the Planning and Zoning Office (770) 794-5669.

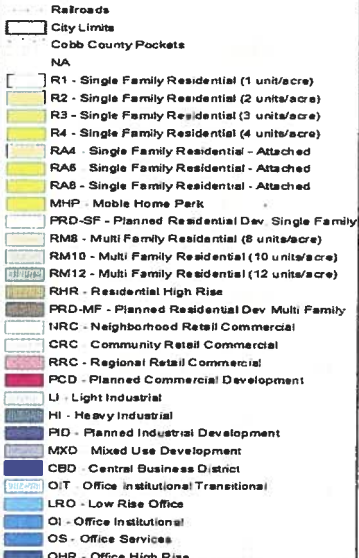
**Accessibility to Meetings:** If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Dennis Stover, ADA Coordinator, at 770-794-5568 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta  
205 Lawrence Street  
Marietta, Georgia 30060



# Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1176 ROSWELL RD	16123800090	0.537	7A	CRC	RAC
Property Owner: 3 Shelly's Inc./Wazir			<b>Zoning Symbols</b>  Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single Family Residential - Attached RA6 - Single Family Residential - Attached RA8 - Single Family Residential - Attached MHP - Mobile Home Park PRD-SF - Planned Residential Dev. Single Family RMB - Multi Family Residential (8 units/acre) RM10 - Multi Family Residential (10 units/acre) RM12 - Multi Family Residential (12 units/acre) RHR - Residential High Rise PRD-MF - Planned Residential Dev. Multi Family NRC - Neighborhood Retail Commercial CRC - Community Retail Commercial RRC - Regional Retail Commercial PCD - Planned Commercial Development LI - Light Industrial HI - Heavy Industrial PID - Planned Industrial Development MXD - Mixed Use Development CBD - Central Business District OIT - Office Institutional Transitional LRO - Low Rise Office OI - Office Institutional OS - Office Services OHR - Office High Rise		
Applicant: Sanford McAllister for Waffle House					
BZA Hearing Date: 1/26/15					
Acquisition Date:					
Case Number: V2015-05					
City of Marietta Planning & Zoning					



SIGNATURE ENDORSEMENTS:

PUBLIC WORKS ENDORSEMENT:

The undersigned, as Public Works Director of the City of Marietta, Georgia, hereby approves this plat for the recording of same in the Office of the Clerk of the Superior Court of Cobb County.

Public Works Director

Date

DEVELOPMENT SERVICES ENDORSEMENT:

The undersigned, as Development Services Director of the City of Marietta, Georgia, hereby approves this exemption plat for the recording of same in the Office of the Clerk of the Superior Court of Cobb County.

Director of the Department of Development Services

Date

SURVEYOR ENDORSEMENT:

It is hereby certified that this plat is true and correct prepared from an actual survey of the property made under my supervision on the ground.

DAVID W. SHIRLEY

Registered Land Surveyor #2870

OWNERS ENDORSEMENT

Owners Signature (TRACT 1)

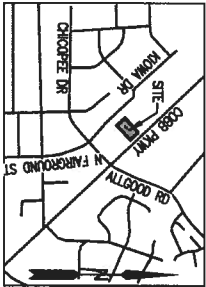
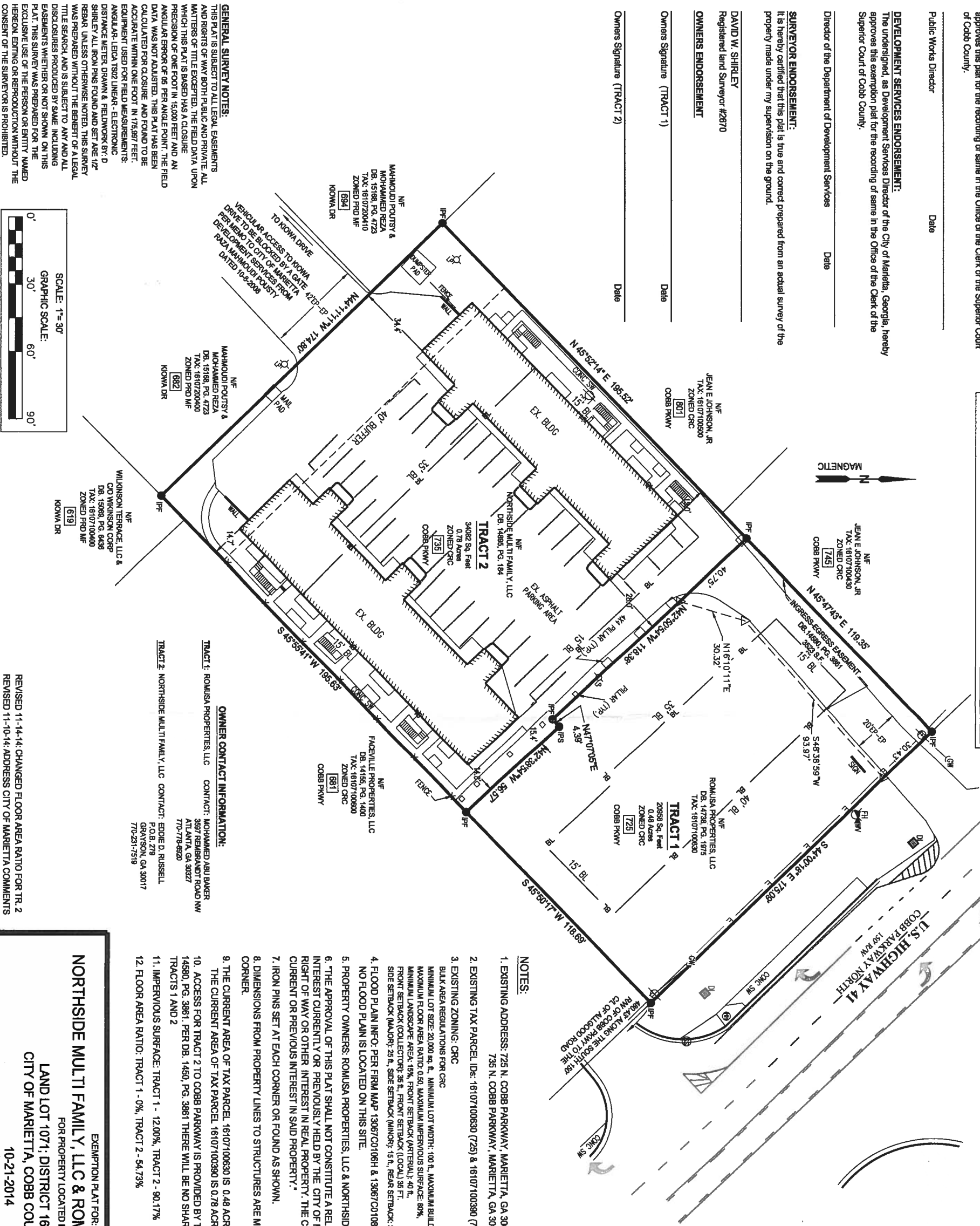
Date

Owners Signature (TRACT 2)

Date

PURPOSE OF PLAT NARRATIVE:

THE PURPOSE OF THIS EXEMPTION PLAT IS TO SUBDIVIDE EXISTING PARCEL CREATING TWO NEW PARCELS. THE BUILDINGS ON TRACT 2 ARE TO BE RETAINED.



LEGEND

- △ EASEMENT CORNER
- PROPERTY CORNER WITH MONUMENT
- R/W RIGHT OF WAY
- DB DEED BOOK
- PB PLAT BOOK
- PG PAGE
- IPS IRON PIN SET
- IFP IRON PIN FOUND
- NLF NAIL FOUND
- WV WATER VALVE
- WM WATER METER
- P.O.B. POINT OF BEGINNING
- N/F PRESENT OR FORMER OWNER
- N.T.S. NOT TO SCALE
- CMP CORRUGATED METAL PIPE
- RCF REINFORCED CONCRETE PIPE
- BL BUILDING LINE

NOTES:

- EXISTING ADDRESS: 725 N. COBB PARKWAY, MARIETTA, GA 30062 (16107100630) 735 N. COBB PARKWAY, MARIETTA, GA 30062 (16107100390)
- EXISTING TAX PARCEL IDS: 16107100630 (725) & 16107100390 (735)
- EXISTING ZONING: CRC BULK AREA REGULATIONS FOR CRC MINIMUM LOT SIZE: 20,000 sq. ft., MINIMUM LOT WIDTH: 100 ft., MAXIMUM BUILDING HEIGHT: 75 ft., MINIMUM FLOOR AREA RATIO: 0.80, MAXIMUM IMPERVIOUS SURFACE: 80%, MINIMUM LANDSCAPE AREA: 16%, FRONT SETBACK (PARKING): 40 ft., FRONT SETBACK (COLLECTOR): 36 ft., FRONT SETBACK (LOCAL): 35 ft., SIDE SETBACK (MAJOR): 25 ft., SIDE SETBACK (MINOR): 15 ft., REAR SETBACK: 35 ft.
- FLOOD PLAIN INFO: PER FIRM MAP 13067C0106H & 13067C0106J DATED 3-4-2013 NO FLOOD PLAIN IS LOCATED ON THIS SITE.
- PROPERTY OWNERS: ROMUSA PROPERTIES, LLC & NORTHSIDE MULTI FAMILY, LLC
- THE APPROVAL OF THIS PLAT SHALL NOT CONSTITUTE A RELEASE OF ANY RIGHT, TITLE OR INTEREST CURRENTLY OR PREVIOUSLY HELD BY THE CITY OF MARIETTA, INCLUDING ANY EASEMENT, RIGHT OF WAY OR OTHER INTEREST IN REAL PROPERTY. THE CITY HEREBY RETAINS ANY AND ALL CURRENT OR PREVIOUS INTEREST IN SAID PROPERTY.
- IRON PINS SET AT EACH CORNER OR FOUND AS SHOWN.
- DIMENSIONS FROM PROPERTY LINES TO STRUCTURES ARE MEASURED TO NEAREST BUILDING FACE CORNER.
- THE CURRENT AREA OF TAX PARCEL 16107100630 IS 0.48 ACRES THE CURRENT AREA OF TAX PARCEL 16107100390 IS 0.78 ACRES
- ACCESS FOR TRACT 2 TO COBB PARKWAY IS PROVIDED BY THE EASEMENT RECORDED IN DB, 14580, PG. 3861, PER DB, 1450, PG. 3861 THERE WILL BE NO SHARED PARKING SPACES BETWEEN TRACTS 1 AND 2
- IMPERVIOUS SURFACE: TRACT 1 - 12.00%, TRACT 2 - 90.17%
- FLOOR AREA RATIO: TRACT 1 - 0%, TRACT 2 - 54.73%

OWNER CONTACT INFORMATION:

- TRACT 1: ROMUSA PROPERTIES, LLC CONTACT: MOHAMMED ABU BAKER 3987 REMBRANT ROAD NW ATLANTA, GA 30327 770-778-6920
- TRACT 2: NORTHSIDE MULTI FAMILY, LLC CONTACT: EDDIE D. RUSSELL P.O.B. 278 GRAYSON, GA 30017 770-231-7519

REVISED 11-14-14: CHANGED FLOOR AREA RATIO FOR TR. 2  
REVISED 11-10-14: ADDRESS CITY OF MARIETTA COMMENTS

NORTHSIDE MULTI FAMILY, LLC & ROMUSA PROPERTIES, LLC

EXEMPTION PLAT FOR:  
LAND LOT 1071; DISTRICT 16; SECTION 2  
CITY OF MARIETTA, COBB COUNTY, GEORGIA  
10-21-2014